

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Region 21**

PETROCHEM INSULATION, INC.

Employer

and

Case 21-RD-2819

FRANCISCO GONZALEZ, an Individual

Petitioner

and

INTERNATIONAL UNION OF PETROLEUM
AND INDUSTRIAL WORKERS

Union

**ORDER WITHDRAWING NOTICE OF HEARING
AND DISMISSING PETITION**

I have determined to dismiss the instant decertification petition based on an insufficient showing of interest.

On July 14, 2006, Francisco Gonzalez, hereinafter Petitioner, filed a decertification petition for certain employees of the Employer.¹ Petitioner contends that there are 100 employees working in the unit. Petitioner submitted a showing of interest in the form of petitions signed by a

¹ All full-time and regular part-time employee including insulators, helpers, laborers, truck drivers, warehousemen, fabricators, fireproofers, painters, scaffold builders, welders, steam and electrical tracers, equipment operators, refractory installers, sheet metal workers, carpenters, and iron workers employed by the Employer on work projects directed or administered by the Employer's Southern California (Los Angeles) branch; excluding all other employees, office clerical employees, guards and supervisor as defined in the Act.

sufficient number of employees to warrant further processing of the petition.

During the course of the processing of the petition, the Employer provided the Regional office with a list of its employees which we checked against the Petitioner's showing of interest.² Based on that comparison, we determined that the Petitioner's showing of interest was insufficient. We afforded the Petitioner a reasonable opportunity to perfect the showing of interest. The Petitioner was unable to perfect a sufficient showing of interest. However, Petitioner did contend that all the employees appearing on its proffered showing of interest should also appear on the employee list presented by the Employer. We thoroughly investigated this contention and again reached the determination that there was an insufficient showing of interest.

² The Employer, a construction industry employer, initially provided the Region with a list of employees that were on its payroll prior to the filing of the petition specifically, as of the payroll period ending July 2, 2006. The Board in *Pike Co.*, 314 NLRB 691 (1994), held that the numerical sufficiency of a showing of interest in the construction industry is based on the number of unit employees employed at the time the petition is filed.

Subsequently, the Employer proffered another list containing the names and job classifications of 97 employees.³ Once again, we compared the list of names provided by Petitioner in support of the decertification petition with the list of the Employer's employees. An inconsequential number of employees that signed the decertification showing of interest petition appeared on the new list of 97 employees provided by the Employer.⁴ Based on the foregoing, we determined that the Petitioner's showing remained deficient.

Inasmuch as the Petitioner has not proffered a showing of at least 30 percent of the unit employees employed during the payroll period immediately preceding the filing of the petition, further processing of the petition is not warranted.

IT IS HEREBY ORDERED that the Notice of Hearing previously issued is withdrawn.

³ During the investigation, it was discovered that the initial employee list submitted by the Employer had been drawn from a premature payroll period. Subsequently, the Employer submitted a second list of employees for the payroll period ending July 9, 2006, the last payroll period immediately preceding the filing of the petition.

⁴ Although afforded an opportunity, Petitioner failed to provide contradictory evidence that other employees who signed the showing of interest petition were working during the payroll period ending July 9, 2006. In this regard, while the Petitioner worked for the Employer in the past, the Petitioner acknowledged that he did not work for the Employer during the payroll period immediately preceding the filing of the petition.

IT IS FURTHER ORDERED that the petition for decertification is dismissed.⁵

DATED at Los Angeles, California, this 28th day of July, 2006.

Victoria E. Aguayo
Regional Director
National Labor Relations Board
Region 21

⁵ Pursuant to the National Labor Relations Board Rules and Regulations, Series 8, as amended, any party may obtain a review of this action by filing a request therefore with the National Labor Relations Board, addressed to the Executive Secretary, National Labor Relations Board, Washington, D.C., 20570. A copy of such request for review must be served on me and each of the other parties to the proceeding. This request for review must contain a complete statement setting forth the facts and reasons upon which it is based. The request for review (eight copies) must be received by the Executive Secretary of the Board in Washington, D.C., by the close of business on August 11, 2006. Upon good cause shown, however, the Board may grant special permission for a longer period within which to file. The request for extension of time should be submitted to the Executive Secretary of the Board in Washington, D.C., and a copy of any such request for extension of time should be submitted to me and to each of the other parties to this proceeding. The request for review and any request for extension of time for filing must include a statement that a copy has been served on me and each of the other parties to this proceeding, and the copy must be served in the same or faster manner as that utilized in filing the request with the Board.